

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA

Plaintiff,

v.

B4B EARTH TEA LLC, a limited liability
company;

B4B CORP., a corporation; and

ANDREW MARTIN SINCLAIR, individually
and as an officer of B4B EARTH TEA LLC and
B4B CORP.,

Defendants.

**UNOPPOSED MOTION FOR
LEAVE TO WITHDRAW AS
COUNSEL FOR DEFENDANTS**

Civil Action No.: 22-CV-1159

Pursuant to Local Civil Rule 1.4 of the United States District Court for the Eastern District of New York, Offit Kurman, P.A. (“Offit”) and its attorneys Matthew Asbell (hereinafter “Asbell”) and Tony Pezzano (hereinafter “Pezzano”), hereby move to withdraw as counsel for defendants B4B EARTH TEA, LLC (hereinafter “ET”), B4B CORP. (hereinafter “Corp”), and ANDREW MARTIN SINCLAIR (hereinafter “Sinclair”)(ET, Corp and Sinclair are hereinafter collectively referred to as “Defendants”) in the above-captioned matter. Affidavits in support of this motion are submitted herewith.

Local Civil Rule 1.4 provides that:

An attorney who has appeared as attorney of record for a party may be relieved or displaced only by order of the court and may not withdraw from a case without leave of the court granted by the order. Such an order may be granted only upon a showing by affidavit of

satisfactory reasons for withdrawal or displacement and the posture of the case, including its position, if any, on the calendar.

See Local Civil Rule 1.4 of the Local Civil Rules of the United States District Courts for the Southern and Eastern Districts of New York.

It is well-settled that a lawyer may seek to withdraw when the client “renders it unreasonably difficult for the lawyer to carry out [such] employment effectively.” *Stephen Eldridge Realty Corp. v. Green*, 174 A.D.2d 564, 566, 570 N.Y.S.2d 677, 678 (2d Dep’t 1991); see *Bok v. Werner*, 780 N.Y.S.2d 332, 9 A.D.3d 318 (1st Dep’t 2004); *Johns-Manville Sales Corp. v. State Univ. Constr. Fund*, 79 A.D.2d 782, 434 N.Y.S.2d 830 (3d Dep’t 1980); 22 NYCRR § 1200.15 (1995). Moreover, where a client’s relationship with its attorney has deteriorated to such an extent that continued representation would be inappropriate and the client does not oppose a motion for withdrawal, the motion should be granted. See *Lake v. M.P.C. Trucking Inc.*, 718 N.Y.S.2d 903, 279 A.D.2d 813 (3d Dep’t 2001) (“Good and sufficient cause has been found to exist when there are irreconcilable differences between the attorney and the client with respect to the proper course to be pursued in the litigation”); *Kraus v. Botti*, 699 N.Y.S.2d 189, 190 (3d Dep’t 1999); *Ashkar v. International Business Machines Corp.*, 201 A.D.2d 765, 766, 601 N.Y.S.2d 488, 489 (3d Dep’t 1994); see also *Valente v. Seiden*, 244 A.D.2d 799, 666 N.Y.S.2d 517 (3d Dep’t 1997) (client’s unwillingness to communicate with her attorney makes it “unreasonably difficult, if not impossible, for [the attorney] to carry out [her] employment effectively”). Indeed, “the existence of an irreconcilable conflict between attorney and client is a proper basis for the attorney to cease representing his client.” *Casper v. Lew Lieberbaum & Co.*, 1999 WL 335334, at *4 (S.D.N.Y. 1999).

Offit, Asbell and Pezzano respectfully submit that there are irreconcilable differences

between the attorneys and the Defendants with respect to the proper course to be pursued in the litigation, and that Defendants' refusal to consider and follow the advice of counsel has rendered it unreasonably difficult for counsel to carry out their responsibilities.

Pursuant to a teleconference on December 20, 2022, counsel for Plaintiffs have advised that they do not oppose this motion.

Accordingly, Asbell, Pezzano and Offit move for leave to withdraw as counsel for Defendants in this matter.

Dated: December 20, 2022
New York, New York

Respectfully submitted,

/s/ Matthew D. Asbell
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CERTIFICATE OF SERVICE

I hereby certify that on December 20, 2022, the foregoing Motion for Leave to Withdraw as Counsel was served by email upon all parties in this action.

/s/ Matthew D. Asbell

MATTHEW D. ASBELL

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